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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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|-----------------|-------------|----------------------|---------------------|------------------|

10/803,766

03/18/2004

Michael Micak

60246-347

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26096

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04/06/2006

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EXAMINER

TANNER, HARRY B

ART UNIT

PAPER NUMBER

3744

DATE MAILED: 04/06/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | | |
|------------------------------|--------------------------------------|-------------------------------------|--|
| Office Action Summary | Application No. 10/803,766 | Applicant(s) MICAK ET AL. | |
| | Examiner Harry B. Tanner | Art Unit 3744 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 October 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12, 15-20 and 22-26 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-12, 15-20 and 22-26 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 10/28/06.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

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The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the independently controlled first and second evaporators, the display case, the service cabinet, the compartment for medical and scientific applications, the remote monitoring means and the plurality of buttons as recited in claims 4, 9-10, 19 and 22 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-8, 11, 15-20 and 23-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Olsen in view of Shim. Olsen discloses a method and system for maintaining a temperature in a refrigerated compartment in which the system cools the compartment and in response to a push button stops the cooling for a given period of time by stopping the evaporator fan and closing the solenoid valve and then starts cooling again after the given period of time (see col. 2, lines 36-53 and col. 9, line 26 to col. 12, line 34). Olsen does not describe the "normal" temperature responsive control of the refrigeration system that his invention interrupts and restores (see col. 1, lines 39-50). Shim teaches temperature responsive control of the refrigeration system (see blocks S203, S204 and S206 of Figure 4) and the use of a plurality of evaporators 6a, 6b operated independently in response to temperature of the compartments to stop the cooling when the temperature in the compartment is at a predetermined temperature in order to provide cooling to a plurality of compartments. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the system of Olsen such that it included temperature responsive control of the refrigeration system and the use of a plurality of evaporators operated independently in response to temperature of the compartments to stop the cooling when the temperature in the compartment is at a predetermined temperature in order to provide cooling to a plurality of compartments in view of the teachings of Shim. The specific time period in which the cooling remains stopped after the button is pressed is considered to have been an

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obvious matter of engineering design based upon the specific requirements of the particular installation as is the provision of more than one button to start the sleep mode.

Claims 9 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Olsen in view of Shim as applied to claim 1 above, and further in view of admitted prior art. It is taken to be admitted prior art that the use of refrigerated compartments for cooling the display cases, the service cabinets, and for medical and scientific applications are well known in the art in view of applicant's response to the Official Notice of same in the previous Office Action. Accordingly, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the system of Olsen such that it provided cooling for display cases, the service cabinets, and for medical and scientific applications.

Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Olsen in view of Shim as applied to claim 1 above, and further in view of Torimitsu. Torimitsu teaches the use of remote monitoring of a refrigerator (see Figure 3). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the system of Olsen such that it included the use of remote monitoring of the refrigerator in view of the teachings of Torimitsu.

Applicant's arguments filed 10/28/05 have been fully considered but they are not persuasive. For example, with respect to applicant's contention that Olsen does not disclose the step of detecting a temperature in a refrigerated container and stopping the cooling when the temperature in the refrigerated container is at a predetermined

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temperature, it is noted that Olsen is directed to the modification of the operation of a conventional refrigeration system in order to allow normal cooling operations to be stopped temporarily (see col. 1, lines 40-43). The normal cooling operation of most conventional refrigeration systems is in response to the temperature of the cooled compartment. Shim shows such a temperature responsive control. With regard to the drawings, applicant's modified figures do not convey to one looking at the new drawing that the limitations recited in claims 4, 9-10, 19 and 22 are a part of the claimed invention.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Harry B. Tanner whose telephone number is (571) 272-

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4813. The examiner can normally be reached 8:30 am to 5:00 pm Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Cheryl Tyler, can be reached on (571) 272-4834. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://portal.uspto.gov/external/portal/pair>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read "Harry B. Tanner". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Harry B. Tanner
Primary Examiner
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